



County of San Diego

MARK WARDLAW
DIRECTOR
PHONE (858) 694-2962
FAX (858) 694-2555

PLANNING & DEVELOPMENT SERVICES
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123
www.sdcounty.ca.gov/pds

DARREN GRETLER
ASSISTANT DIRECTOR
PHONE (858) 694-2962
FAX (858) 694-2555

August 27, 2015

MITIGATED NEGATIVE DECLARATION

PROJECT NAME: Virissimo Major Grading Plan

RECORD ID: PDS2014-LDGRMJ-00017

ENVIRONMENTAL LOG NO.: PDS2015-ER-15-08-019

**This Document is Considered Draft Until it is Adopted by the Appropriate
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
 - b. Environmental Analysis Form and attached extended studies for
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

Biology**1. BIO#1–BIOLOGICAL EASEMENT [PDS, FEE X 2]**

In order to protect sensitive biological resources, pursuant to the Habitat Loss Permit Ordinance and CEQA, a biological open space easement shall be granted.

DESCRIPTION OF REQUIREMENT: Grant to the County of San Diego by separate document, an open space easement over the whole area east of the San Diego Aqueduct easement, except for the area within the SDG&E easement, as shown on the approved Grading Plan. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation. The only exception(s) to this prohibition is:

- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, (<http://www.sdcountry.ca.gov/PDS/docs/MemoofUnder.pdf>) between the wildlife agencies and the fire districts and any subsequent amendments thereto.
- b. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of PDS, DPW or DPR.

DOCUMENTATION: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the [DGS, RP], and pay all applicable fees associated with preparation of the documents. **TIMING:** Prior to issuance of any permit, and prior to use of the premises in reliance of this permit the easements shall be recorded. **MONITORING:** The [DGS, RP] shall prepare and approve the easement documents and send them to [PDS, PCC] for pre-approval. The [PDS, PCC] shall pre-approve the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon Recordation of the easements [DGS, RP] shall forward a copy of the recorded documents to [PDS, PCC] [DPR, TC] for satisfaction of the condition.

2. BIO#2–OFFSITE MITIGATION [PDS, FEE X2]

INTENT: In order to mitigate for the impacts to Diegan coastal sage scrub, which is a sensitive biological resource pursuant to the Habitat Loss Permit ordinance and CEQA, offsite mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of 0.2 acre of coastal sage scrub, located at the Brook Forest Mitigation bank or another

approved mitigation bank or site designated as PAMA by the Draft North County MSCP as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Wildlife. The following evidence of purchase shall include the following information to be provided by the mitigation bank:
 1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
 2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
 3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
 4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount, location, and type of land mentioned above, as indicated below:
 1. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS].
 2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
 3. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
 4. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
 5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

DOCUMENTATION: The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation

is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the [PDS, ZONING]. **TIMING:** Prior to issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

Draft Grading Plan Notes:

The following conditions shall be placed on the face of the grading permit:

GP1. OPEN SPACE SIGNAGE [PDS, FEE]

INTENT: In order to protect the proposed open space easement from entry, informational signs shall be installed. **DESCRIPTION OF REQUIREMENT:** Open space signs shall be placed along the boundaries of the biological open space as indicated on the approved Grading Plan. The signs must be corrosion resistant, a minimum of 6" x 9" in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

Sensitive Environmental Resources Area Restricted by Easement

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the County of San Diego,
Planning & Development Services
Reference: PDS2014-LDGRMJ-00017

DOCUMENTATION: The applicant shall install the signs as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space signs have been installed at the boundary of the open space easement(s). **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the open space signs shall be installed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition.

GP2. OPEN SPACE BARRIERS [PDS, FEE]

INTENT: In order to protect the proposed open space easement from entry, or disturbance, existing dirt roads into the biological open space easement shall be blocked with large boulders. **DESCRIPTION OF REQUIREMENT:** Large boulders shall be placed at each entry of existing dirt roads into the biological open space

easement as indicated on the approved Grading Plan. **DOCUMENTATION:** The applicant shall install the large boulders as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space barriers (boulders) have been installed at the open space easement boundary. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the boulders shall be placed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition.

GP3. BREEDING SEASON AVOIDANCE [PDS, FEE X2]

INTENT: In order to avoid impacts to nesting migratory birds and raptors, which are a sensitive biological resource pursuant to CEQA, the MBTA and Fish and Wildlife Code, breeding season avoidance shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading such that none will be allowed during the breeding season of migratory birds or raptors, between January 15 and August 31. The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Wildlife, provided that no nesting or breeding birds are present within 300 feet of the brushing, clearing or grading (500 feet for raptors) based on a survey conducted by a County-approved biological consultant within seven days prior to the proposed start of clearing/grading. If nesting birds are present in the vicinity, prior to granting permission PDS and the Wildlife Agencies may require avoidance measures such as, but not limited to, staking and posting an area 300 feet from the nest to prohibit all clearing, grubbing and construction work within the perimeter until the qualified biologist determines that the nests are no longer occupied with written notification to the approval of the Director of PDS. **DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. No grading shall occur on-site until concurrence is received from the County and the Wildlife Agencies. **TIMING:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. **MONITORING:** The [DPW, PDC] shall not allow any grading during the specified dates, unless a concurrence from PDS and the Wildlife Agencies is received. The [PDS, PCC] shall review the concurrence letter.

GP4. PALEONTOLOGICAL MONITORING [PDS, FEE X2]

INTENT: In order to comply with Mitigation Monitoring and Reporting Program pursuant to the grading plans, a Paleontological Resource Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** This project site has marginal to low levels of sensitive Paleontological resources. All grading activities are subject to the [County of San Diego Grading Ordinance Section 87.430](#), if any significant resources (Fossils) are encountered during grading activities.

- a. The grading contractor is responsible to monitor for paleontological resources during all grading activities. If any fossils are found greater than 12 inches in any dimension, stop all grading activities and contact the [PDS, PCC] before continuing grading operations.

- b. If **any** paleontological resources are discovered and salvaged, the monitoring, recovery, and subsequent work determined necessary shall be completed by or under the supervision of a Qualified Paleontologist pursuant to the [San Diego County Guidelines for Determining Significance for Paleontological Resources](#).

TIMING: The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor is on-site performing the Monitoring duties of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the grading contractor or applicant fails to comply with this condition.

GP5. PALEONTOLOGICAL MONITORING [PDS, FEE]

INTENT: In order to comply with the adopted Mitigation Monitoring and Reporting Program (MMRP) pursuant to the grading plan, and the [County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Paleontological Resources](#), a Grading Monitoring Program shall be implemented.

DESCRIPTION OF REQUIREMENT: One of the following letters shall be performed upon completion of the grading activities that require monitoring:

- a. If **no** paleontological resources were discovered, submit a “No Fossils Found” letter from the grading contractor to the [PDS, PCC] stating that the monitoring has been completed and that no fossils were discovered, and including the names and signatures from the fossil monitors. The letter shall be in the format of Attachment E of the [County of San Diego Guidelines for Determining Significance for Paleontological Resources](#).
- b. If Paleontological **resources were encountered** during grading, a letter shall be prepared stating that the field grading monitoring activities have been completed, and that resources have been encountered. The letter shall detail the anticipated time schedule for completion of the curation phase of the monitoring.

DOCUMENTATION: The applicant shall submit the letter report to the [PDS, PCC] for review and approval. **TIMING:** Upon completion of all grading activities, and prior to Rough Grading final Inspection ([Grading Ordinance SEC 87.421.a.2](#)), the letter report shall be completed. **MONITORING:** The [PDS, PCC] shall review the final negative letter report or field monitoring memo for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

None

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

Director of Planning and Development Services

on _____

Mindy Fogg, Planning Manager
Project Planning Division